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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	§	
Duncan M. Kitchen	§	Art Unit: 2616
	§	
Serial No.: 09/841,657	§	Examiner: Chi Ho Andrew Lee
	§	
Filed: April 24, 2001	§	Atty Docket: ITL.0405US
	§	(P8988)
For: Managing Bandwidth in Network	§	
Supporting Variable Bit Rate	§	Assignee: Intel Corporation
	§	

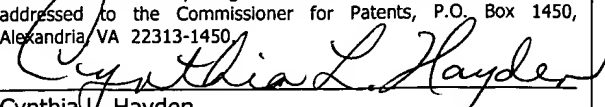
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REPLY BRIEF

In response to the new issues raised by the Examiner in the Examiner's Answer, the following reply is provided.

Firstly, under Response to Argument on page 10, the Examiner argues that because an "application" is not claimed the applicant's arguments are not relevant. The appellant was addressing the argument that the new bandwidth request 518 somehow teaches determining whether additional unreserved bandwidth is required.

The Appeal Brief notes that the request 518 is from a different, additional application. Thus, the different application in the reference is not acting "in response to detecting a bit rate change event." In other words, the determining whether an additional unreserved bandwidth is required is done by an application different from what detects a bit rate change event. This being so, it is not seen how, at least in general, it could be deduced that the using of the reserved bandwidth for a first portion of the data and using an unreserved bandwidth for a second portion

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Cynthia L. Hayden

of the data was in response to detecting the bit rate change event. Since two different entities do these things, there is no reason to presume that they are communicating with one another and one of them precipitates the other.

The Examiner suggests that the claim does not limit the use of different applications executing the same mobile requesting additional bandwidth. While it is true that those words are not used, the effect of the words that are used is exactly that. For example, claim 1 calls for a controller “to detect a bit rate change event and in response to said event to transmit a first portion of the data using reserved bandwidth and a second portion of the data using an unreserved bandwidth in response to detecting the bit change event.”

In the cited reference, it is not a controller that is doing both things. It is two unconnected applications. It is explained in column 7, lines 5-16 that the communication system 100 has a gate keeper 112 that keeps or receives a count of the actual slots per second used by an application. The gate keeper 112 is shown in Figure 1. It is represented as a box separate from the web server 114, video server 116, and the storage 110.

The office action contends that the controller is the item 302. That is shown in the box 302 in the base site 104. Clearly, it can be seen in Figure 1 that the base site 104 is totally separate from the gate keeper 112. It is separated by a communication link 110 and routers 108 as shown in Figure 1. Thus, the conclusion that it is the same controller that does all these things is completely unsupportable and is sufficient in and of itself to reverse the rejection.

The specification of the cited reference at column 5, lines 41-42 indicates that the delay sensitive application requirements are sent by the bandwidth manager 500 by an application on the wireless terminal 102 shown in Figure 1. These requirements include the bit rate, as the Examiner indicates at the bottom of page 5. But just because you tell what your bit rate requirements are, you have not created a bit change event, namely, a real time event. You have just specified your requirements. It would be akin to a police officer pulling you over for a speeding ticket saying I do not know what speed you were going, but I know you are driving a car that can go 200 miles an hour. There is a difference between a bit rate change event and a bit rate capability.

The Examiner is making too much about the use of the same two words “bit rate” in very different ways, in very different contexts. The suggestion that if the bandwidth is available the bandwidth is reserved for the requested bit rate, even if true, does not meet the claimed

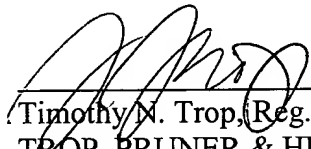
limitations. There never was the detection of a bit rate change request. The suggestion on page 6 of the Answer that step 518 determines whether additional bandwidth is required, stating in parentheses detecting a bit rate change event, makes no sense. All that is determined is whether more bandwidth is required. The bit rate is unchanged and nothing to the contrary is indicated at page 7, lines 20-30. Moreover, no change is ever detected, regardless of what is the bandwidth that is allocated. The reference simply has little or nothing to do with what is claimed.

The Examiner argues on page 6 "Hence, the data is transmitted over a first bandwidth (first portion) and if more bandwidth is available, the data is transmitted over additional bandwidth (second portion)." If this is what happens, then, certainly, the reference has nothing to do with what is claimed. By the Examiner's own admission, data is transmitted over one bandwidth and over a second bandwidth if available. But the claim requires detection of a bit rate change event that precipitates the transmitting of a first portion over one bandwidth or a second portion over a second bandwidth. Here, the Examiner concedes that availability is what drives the transmission, not the detection of a bit rate change. This admission also would in and of itself justify reversal.

In view of these remarks, the rejection should be reversed.

Respectfully submitted,

Date: August 1, 2006



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